

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court No.
District Court Case No. A-18-772761-C

Electronically Filed
Sep 26 2019 02:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

VENETIAN CASINO RESORT, LLC, a Nevada limited liability company,
LAS VEGAS SANDS, LLC, a Nevada limited liability company,
Petitioners,

v.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHLEEN
DELANEY in her capacity as District Judge,
Respondent,
JOYCE SEKERA, an individual,
Real Party in Interest

**APPENDIX TO PETITIONERS' EMERGENCY PETITION FOR WRIT OF
MANDAMUS AND/OR WRIT OF PROHIBITION UNDER NRAP RULES
21(a)(6) AND 27(e) AND EMERGENCY MOTION UNDER NRAP 8
STAYING EXECUTION OF ORDER DIRECTING PETITIONERS TO
DISCLOSE PRIVATE, PROTECTED INFORMATION OF GUESTS NOT
INVOLVED IN UNDERLYING LAWSUIT**
Volume 3 of 3 (Exhibits 20-22)

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Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, by and through their counsel of record, Royal & Miles LLP, hereby submit is Appendix in compliance with Nevada Rule of Appellate Procedure 30.

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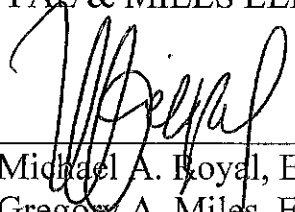
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The Appendix shall be contained in 3 separate volumes in accordance with NRAP 30(c)(2) (2013), each volume containing no more than 250 pages.

DATED this 26 day of September, 2019.

ROYAL & MILES LLP

By


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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the law firm of Royal & Miles LLP, attorney's for Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, and that on the 26 day of September, 2019, I served true and correct copy of the foregoing APPENDIX TO PETITIONERS' EMERGENCY PETITION FOR WRIT OF MANDAMUS AND/OR WRIT OF PROHIBITION UNDER NRAP RULES 21(a)(6) AND 27(e) AND EMERGENCY MOTION UNDER NRAP 8 STAYING EXECUTION OF ORDER DIRECTING PETITIONERS TO DISCLOSE PRIVATE, PROTECTED INFORMATION OF GUESTS NOT INVOLVED IN UNDERLYING LAWSUIT Volume 3 of 3 (Exhibits 20-22), by delivering the same via U.S. Mail addressed to the following:

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Respondent


An employee of Royal & Miles LLP

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DISTRICT COURT
CLARK COUNTY, NEVADA

JOYCE SEKERA,)	
)	
Plaintiff,)	
)	Case No. A-18-772761-C
vs.)	Dept. No. XXV
)	
VENETIAN CASINO RESORT, LLC,)	
)	
Defendant.)	

Before the Honorable KATHLEEN E. DELANEY
Tuesday, September 17, 219, 9:00 A.M.
Reporter's Transcript of Proceedings

Defendant's Motion for Leave to File Motion
for Reconsideration on Order Reversing Discovery
Commissioner's Report and Recommendation and
Motion for Stay Order Until Hearing on Reconsideration
or Alternatively Motion to Stay all Proceedings Pending
Application for Writ of Mandamus on Order Shortening Time

APPEARANCES:

For the Plaintiff: KEITH E. GALLIHER, JR., ESQ.
Attorney at Law

For the Defendant: MICHAEL A. ROYAL, ESQ.
Attorney at Law

REPORTED BY: RENEE SILVAGGIO, C.C.R. No. 122

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Las Vegas, Clark County, Nevada
Tuesday, September 17, 219, 9:00 A.M.

P R O C E E D I N G S

* * * * *

THE COURT: Page 10, Sekera versus Venetian
Casino.

I appreciate your letting the department know,
Mr. Galliher, that you would be returning late. Obviously by
the time we got to you, it didn't matter, but --

MR. GALLIHER: Thank you, Your Honor. Keith
Galliher on behalf of plaintiff.

MR. ROYAL: Mike Royal on behalf of defendants,
Your Honor.

THE COURT: Thank you so much.

So a lot of briefing, as usual, in this matter.
It's always a pleasure though because it's always a pleasure to
spend time with your briefs.

But I know this is a very serious matter to the
Venetian and I know they're very concerned about how this might
go.

So what is on the calendar today, just for the
record, what has been styled as Defendant's Motion For Leave to
File Motion for Reconsideration on Order Reversing Discovery
Commissioner's Report and Recommendation and Motion to Stay
Order Until Hearing on Reconsideration or Alternatively Motion

1 to Stay All Proceedings Pending Application For Writ of
2 Mandamus on Order Shortening Time.

3 I do see also that the Motion for Protective
4 Order is now scheduled on the 18th. I don't know for some
5 reason -- and then there's also the Plaintiff's Motion to
6 Compel and a few other things. These are all, I think, all of
7 the Discovery Commissioner coming up here in an a couple of
8 days.

9 But for some reason I thought it already would
10 have been back to the Discovery Commissioner on some of these
11 things, but I understand the request.

12 Here's my concern, Mr. Royal, I guess as I put
13 it out there for you, is looking at this going up on a writ --
14 and just so that you know for the record, I have no qualms if
15 any party ever wants to do a writ, you know, I have no problems
16 with that. Any guidance we can ever get from our Appellate
17 Courts, whether it be postjudgement or whether it be
18 prejudgment, is just happy to have guidance.

19 But when it comes to evidentiary decisions and
20 when it comes to these types of things, my experience is about
21 as fast as the Appellate Court can do it they turn it around
22 and say, no, you know, go to trial, if you lose you appeal and
23 that's your remedies and that's the remedies and I'm really not
24 sure that they would -- that they would consider this on a
25 writ. That's one of the reasons why I'm attempting to maybe

1 focus on the better course of action to be either staying or --
2 or having whatever decisions are going to be at the District
3 Court level to be made first.

4 But I just throw that out there for a thought
5 process, but I'm happy to hear you argue whatever it is that
6 you want to highlight for your briefs this morning.

7 MR. ROYAL: Thank you, Your Honor. I will try
8 to make this brief.

9 We -- first of all, with respect to this hearing
10 and the Discovery Commissioner's -- the hearing before the
11 Discovery Commissioner on the Motion to Compel, they would have
12 been heard. They were all continued and that was just an
13 accommodation between counsel.

14 THE COURT: Okay. Okay. That's what -- I
15 thought they were already on the schedule. Thank you. I
16 thought I was losing my mind. And I didn't have time, I
17 apologize, yesterday. By the time I got everything and had to
18 go into the Odyssey and drill down and see what had happened
19 there. So thank you for that clarification.

20 MR. ROYAL: Yeah. I do think that timeline is
21 important, and I'm not going to go through the entire timeline
22 but just the fact that we had a hearing on March 14th. The
23 order was submitted -- or rather was filed by the Court on
24 July 31st. And once that occurred, we -- we did file this
25 motion on an OST, and then that kind of fell within the scope

1 of everything else to get moved.

2 I know Mr. Galliher's firm had a trial. And so
3 anyway, that's why we're here today on this particular issue.

4 I think, Your Honor, that the thing that we want
5 to point out is as it relates to the -- the privacy concerns
6 that my client has, once -- once these documents are produced
7 and in unredacted form, they're out there. There's nothing in
8 the present order that prevents plaintiff's counsel from
9 sharing them with anyone and everyone.

10 Even though the Court has expressed, in the
11 Order, some concerns or at least Your Honor kind of admonished
12 them to be a little careful, I mean, there's no teeth in any --

13 THE COURT: Well, and it's funny, and I don't
14 mean to interrupt you, but I want to share this point with you.
15 It's funny as I was reading the briefings I'm like, we didn't
16 do that? Because it felt to me like when we talked about it,
17 that I made it clear that this was to be for attorneys to have
18 for -- because I felt they were entitled to this evidence, but
19 not necessarily -- and we know coming in that, yes,
20 Mr. Galliher has some of the information he has because someone
21 else in plaintiffs' bar has shared with him things, but I
22 thought we had a discussion about, you know, while we maybe
23 numbers or circumstances or things, you know, would somehow be
24 public record or known that anything that was private or
25 personal to these individuals really is not -- that would be

1 personal identifiers, but otherwise would need to be redacted
2 out of litigation, maybe, you know, the attorneys would need to
3 see to have some ability to contact or follow up, but it would
4 not be something that could be circulated to others.

5 We didn't clarify any of that?

6 MR. ROYAL: We did not, and I appreciate the
7 Court bringing that up.

8 That was our primary concern in the first place
9 when we filed our motion before the Discovery Commissioner.
10 Our concern was that this was -- all this information would be
11 for Attorneys Eyes Only. And, of course, the Discovery
12 Commissioner granted that, and she also granted that we would
13 leave the prior Incident Reports in redacted form.

14 When it -- when we were before the Court on
15 May 14th, one of the things that the Court indicated is that --
16 is that it couldn't find a -- a legal basis in which to support
17 the Discovery Commissioner's Report and Recommendation, where
18 she ordered the Protective Order and to leave in redacted form.

19 And --

20 THE COURT: But it was very heavily redacted.
21 It wasn't just redacted as to personal identifiers, if I recall
22 correctly.

23 Am I not remembering that?

24 MR. ROYAL: It was redacted. It had their name,
25 contact information of these guests who were involved in prior

1 incidents.

2 So we can look at them again, Your Honor, but
3 it's my understanding is what -- and I haven't looked at them
4 for, you know, the last two or three weeks, but I can tell you
5 that it's the name, it's their address, it's their phone
6 number, it would be dates of birth and socials, if they're
7 there, that kind of information.

8 So if that's heavily redacted, because there
9 were, I believe, somewhere in the neighborhood of five to
10 600 pages of documents, and so that may appear heavily
11 redacted, but that's the information that was redacted and
12 that's what the Discovery Commissioner ordered to remain
13 redacted.

14 And so they have presently information as
15 relates to all these prior incidents preceding -- for the three
16 years preceding this incident. They have that information.

17 They have, through their independent means, been
18 able to acquire other information from other -- regarding other
19 incidents for longer periods of time and so forth that, as I
20 understand it, are in redacted form. I don't know necessarily
21 because I don't know everything that they have.

22 But all I can say is once this information in
23 unredacted form goes to Mr. Galliher's office under the present
24 -- under the present state of affairs, the Order, there's
25 nothing preventing them from providing it to everybody.

1 That's our biggest concern. We want to protect
2 the privacy of these individuals.

3 The information that they need with respect to
4 demonstrating constructive notice and so forth, the arguments
5 they're making, don't require them to have the names and the
6 contact information for all these people, and to contact all
7 these people, not just for themselves, but for several other
8 attorneys who are representing plaintiffs in other cases
9 against the Venetian.

10 And so these can just go on in perpetuity being
11 shared under the present state of affairs, under what we have,
12 under our present Order. That's our concern.

13 So when we talk about filing a writ, I mean,
14 maybe the Court doesn't listen to it, but it's a matter of
15 great importance, which I tried to point out more clearly to
16 the Court.

17 THE COURT: Well, no, I think -- I think you
18 pointed out perfectly clearly. I just haven't agreed with you
19 on what was appropriate for this case up to this point.

20 But the writ argument that it had, that I think
21 maybe has potential for purchase is to land with them and stay
22 with them and you might look at it, is sort of this idea of is
23 the Court wrong in allowing this information in if it's going
24 to potentially be used for notice?

25 I mean, I think you are making the assumption

1 that at this stage the Court has already said that there is
2 admissibility and all these arguments available to the counsel.

3 And, you know, from the Court's perspective,
4 what it had done up to this point is said I'm not going to
5 preclude them from having the ability to have access to this
6 information because we have allowed certain things to go
7 forward in the case where I think this is relevant or could
8 lead to relevant discovery, and so that's why.

9 But I think the argument being that if it should
10 be precluded because it would be impermissible to use or
11 something, maybe the Court would look at that and revisit that.

12 If it's just a sheer evidentiary ruling, that's
13 where I have seen the Court very readily say you have a
14 plaintiff's remedy going to trial, go to trial, and if you
15 lose, then appeal, and if you don't, then who cares kind of
16 thing? So I don't know where they're going to go with it.

17 But what is going to happen on Thursday if I
18 make a ruling on this decision here today? Is it going to moot
19 Thursday?

20 MR. ROYAL: I'm sorry. What's Thursday?

21 THE COURT: Isn't that the date that you have
22 your --

23 MR. GALLIHER: Wednesday, Wednesday.

24 THE COURT: Oh, it's Wednesday.

25 MR. ROYAL: No, no. Those are actually separate

1 issues. They're not related to this. They're completely
2 separate.

3 THE COURT: Because it still talks about a
4 Motion for Protective Order on the Production of Incident
5 Reports and other things; and then, of course, a compel -- a
6 Motion to Compel, and there's Plaintiff's Motion to Compel. So
7 I knew that there was stuff that wasn't, but is there any
8 impact on what happens Wednesday from what we decide here?

9 MR. ROYAL: No. Well, I will say this: What
10 they're looking for, you know, what we're kind of wrestling
11 over in front of Discovery Commissioner tomorrow relates to
12 more scope of the information that they're looking for.

13 It doesn't relate to this particular issue
14 before the Court, you know, with respect to the privacy.

15 I'm sure that we will argue. I'm sure that
16 there will be some argument as relates to privacy and so forth
17 that we believe these guests are entitled to.

18 And so I think, Your Honor, it's -- and it's not
19 just based on evidentiary issues.

20 It's based on the fact that once this
21 information, under the present order, once it goes to
22 Mr. Galliher, it will be shared and it will be shared with --
23 with -- I can name the attorneys, I don't need to, but
24 they're --

25 THE COURT: I think they came up in prior

1 argument.

2 MR. ROYAL: But they're -- but they're, you
3 know, they're sharing, and there's no har- -- unless there's a
4 Court order, there's nothing wrong with that.

5 THE COURT: No.

6 MR. ROYAL: But that's why we -- we went to the
7 Discovery Commissioner in the first place was to get an order
8 that would keep this information, if it goes to Mr. Galliher,
9 it could meet all the needs that he wants with respect to this
10 trial, but I'm not sure how it benefits anyone, certainly how
11 it benefits the process, to allow him to then share with every
12 other attorney the names, the addresses, the phone numbers and
13 dates of birth and all this other information related to
14 these --

15 THE COURT: Let's hear from Mr. Galliher.

16 MR. GALLIHER: Thank you, Your Honor.

17 THE COURT: You didn't bring your trusty
18 sidekick. Where is she?

19 MR. GALLIHER: She's actually in Department 14.

20 THE COURT: Okay.

21 MR. GALLIHER: She has another matter that's
22 probably more problematic for her than this one.

23 THE COURT: Okay.

24 MR. GALLIHER: Your Honor, the problem I have
25 with Mr. Royal's position, we thoroughly briefed this issue the

1 first time this Court heard the matter and we supported our
2 position with case law that universally supports the notion
3 that the report should be unredacted and also supports the
4 notion that we are entitled to share with other attorneys.

5 There is no case law to the contrary. One of
6 the things I may -- I argued before the Court as the judge
7 there was zero case authority supporting the Venetian's
8 position that these reports should be redacted and not be
9 supplied unredacted and zero case authority supporting
10 Venetian's position that we cannot share the information.

11 The Court understood that, read the briefs,
12 agreed with it.

13 And here we are back again, and, of course, this
14 is a Motion For Leave For Rehearing, but in realty what's
15 happening is Mr. Royal is rearguing the exact positions that he
16 argued when the Court decided against the Venetian in the last
17 hearing.

18 The only thing that's been added to the Motion
19 for Reconsideration in this case is reference to NRS 603(a).

20 We spent a lot of time in our brief showing the
21 Court that the statute does not apply to our situation as to
22 with identity theft, has nothing to do with what we are here
23 for today.

24 And the other thing that's bothersome is there
25 has been, apart from that new argument, there was another new

1 argument raised; and, of course, all of these arguments could
2 have been raised in the initial motion that was heard by the
3 Court and wasn't.

4 And, of course, the Nevada authority is very
5 clear on a Motion For a Hearing you cannot reargue matters that
6 were considered earlier, and you cannot raise new matters that
7 you could have raised earlier that the Court had decided.

8 So what we're asking here -- I see a trend.
9 We've got a situation --

10 THE COURT: I think what we're having here is
11 they don't want to turn over the materials.

12 MR. GALLIHER: Of course.

13 THE COURT: And we're -- we're finding
14 arguments, and colorful arguments maybe, to -- to continue to
15 delay that or fine tune that.

16 MR. GALLIHER: As we pointed out, Judge, in our
17 brief, we don't even think they are coverable.

18 But bottom line is that what we're seeing is a
19 motion is filed, heard, decided. Nothing is given to us. We
20 still don't have anything at all that we requested.

21 Then we get a Motion For Leave For
22 Reconsideration to Rehear. Every matter the Court has decided
23 by motion against the Venetian in this case has been the
24 subject of a Motion For Leave to Rehear it.

25 So what -- where we are now is four, almost five

1 months after the initial decision, the initial argument and
2 decision in this case, we still don't have any of the discovery
3 that we requested, and they have come back before the Court
4 rearguing exactly what they argued before when the Court
5 decided against them.

6 So as we pointed out in our brief, the Court
7 simply deny this motion upon the grounds that the points were
8 -- that Venetian has reargued their points and they waived the
9 additional arguments they have made because they didn't make
10 those arguments in their initial motion practice when all of
11 the information available to make those arguments was available
12 to the Venetian before the motion was filed.

13 So I think you are absolutely right. You hit
14 the nail on the head. The Venetian just doesn't want to give
15 us the information.

16 Well, that's nice, but unfortunately we have a
17 -- a punitive damage claim in this case that we're trying to
18 discover. We have also have the issue of comparative
19 negligence by the way, which is exactly where these witnesses
20 that we want to identify go to.

21 Obviously, Judge, if the case is tried, usual
22 approach from the defense is: Well, Ms. Sekera, why didn't you
23 see the spot on the floor? Why didn't you see the water on the
24 floor?

25 Well, and then, of course, the jury says: Why

1 didn't she see water before?

2 Well, if you've got 10, 12, 15 people who also
3 didn't see the water on the floor, it kind of deflates the
4 comparative negligence defense, so it's relevant.

5 So the question is: Is the discovery reasonably
6 calculated to lead to discovery evidence?

7 Of course, it is.

8 Does the case authority support our position
9 completely?

10 Yes, it does.

11 There's zero authority for what the Venetian
12 wants to do in this case.

13 THE COURT: Mr. Royal, final argument.

14 MR. ROYAL: Well, I disagree that there's --
15 that there's zero authority.

16 I think one of the things that I want to point
17 out to the Court is, you know, we have a new NRCP 26(b)(1), the
18 proportionality and relevancy and so forth. And, Your Honor,
19 that wasn't really addressed in front of the Discovery
20 Commissioner. We didn't really go over at that May 14th
21 hearing. It wasn't really analyzed deep in the briefing.

22 Counsel argued, well, that was May 1st -- or
23 March 1st, you should have brought that up.

24 Your Honor, I just want -- I want to have the
25 Court to have the opportunity to get to the right answer.

1 And so -- well, we've -- we've reminded the
2 Court of 26(b)(1).

3 They have obligations under 26(b)(1) to show
4 both relevancy and proportionality and so forth, which I don't
5 believe they've done. I don't believe they've met that.

6 We've also provided the Court with -- with cases
7 from the local US District Court as relates to how they have
8 looked at NRCP 26(b)(1), the same issue, and how they've -- and
9 how they ruled.

10 And so one of the things the Court indicated
11 back on May 14th is it just didn't see a way to support the
12 Commissioner's Report and Recommendation.

13 And in addition, Your Honor, we also wanted to
14 point out that Commissioner Bulla also provided discovery -- or
15 rather Protective Orders similar to this in cases with similar
16 circumstances.

17 The Smith case is one that comes to mind, where
18 they also have redacted reports and videos that were produced
19 of other incidents in that case where protected under 26(c).

20 And so it's not as though this -- what
21 Commissioner Truman did on this particular case, it's some sort
22 of an outlier. It's consistent with what the Discovery
23 Commissioner had previously done.

24 We believe it's consistent with the law to
25 protect the privacy of these individuals.

1 And so that's what we want to point out to the
2 Court.

3 Again, Mr. Galliher, I understand his -- his
4 position. For him to say that there's no case law supporting
5 our position, I think, is just -- is just incorrect.

6 And so with that, Your Honor, we -- we've tried
7 to brief this thoroughly for the Court and we would just ask
8 that -- that the Court reconsider the fact that the entire
9 Discovery Commissioner's Report and Recommendation as it
10 relates to our 26(c) request was reversed by the Court and that
11 if we produce these documents to Mr. Galliher, once we produce
12 them, they will be shared. And there's no limit as to where
13 they will go with all this personal information. That is the
14 problem.

15 THE COURT: Did you want to say something,
16 Mr. Galliher?

17 MR. GALLIHER: I just want to add one thing
18 about personal information. There's no Social Security
19 information, no driver's license information, which is the
20 personal information contained on the Venetian reports. That
21 is information they do not take down. None of the Venetian
22 reports contain that information.

23 THE COURT: There's very specific things that
24 are statutory requirements which would require to be precluded
25 from being in fillings and other things, and those are the type

1 of personal identifiers, as you pointed out, under certain
2 circumstances that could lead to other things. That's just not
3 what we're dealing with here.

4 What we're dealing with here I really think all
5 boils down to Mr. Royal very strongly advocating for his
6 client, and I understand why, if I was in his shoes I would do
7 the same, to say, look, we don't think this information is
8 relevant to the case. We don't think that they should be able
9 to do discovery on these things, that this is strictly going to
10 a notice thing, that the Eldorado case really, you know,
11 controls this, and says the Supreme Court, you know, the
12 Supreme Court has said, you know, you really can't have this,
13 and that the Court has erred in putting forward, you know, or
14 allowing, I should say, the discovery to go forward as the --
15 as it has.

16 And, you know, here's how I weigh it out and how
17 I'm hopefully going to make my decision so you know.

18 I do have a very serious concern that if I don't
19 somewhere, somehow, stop the bleeding, I'm going to continue to
20 get this constantly, month by month, every time I make a
21 decision in this case (indicating).

22 And I feel like in part if I gave the
23 reconsideration motion leave and the stay briefly to allow that
24 to be filed and heard, then I'm going to create the very
25 monster that I think we're already living with, which is just

1 endless arguments over the same things and fighting tooth and
2 nail to not have full discovery in this case, when arguably
3 full discovery is warranted.

4 On the other hand, if we did not create a
5 thorough enough record of our decision making and there are
6 some cases that inform us, we certainly know there's a long
7 history in Nevada to look to federal case law for guidance on
8 the rules that are previously similar and now virtually
9 identical, and that there are some reasons why, you know,
10 perhaps the full scope of arguments that could have been put
11 forward to this Court were not considered and should be to
12 complete the record and insure that it is understood, whatever
13 the Court does in the end of the day, is supported and
14 appropriate in this Court's perspective, obviously because
15 beauty is always in the eyes of beholder in the Appellate
16 Courts, that -- that we should potentially have this one more
17 full scope hearing.

18 I'm torn, because I always lean towards I want
19 -- if my decisions are going to be reviewed, them to be as
20 thoroughly vetted and full of record as they can be.

21 And I've had Supreme Court Justices tell me that
22 they do appreciate that we generally have a full record here.

23 But like I said, otherwise I'm very concerned
24 about creating, you know, or I guess perpetuating precedent
25 where every time there's a ruling we're just not following up

1 on it and we're just not respecting it, maybe is too strong a
2 word, but we're not -- we're not agreeing with it and we're
3 continuing to fight it.

4 My ultimate decision here is: I do believe that
5 the Court's prior decision was sound. I do believe it was
6 supported by the case law. I do believe that the vast majority
7 of what we have here in this Motion For Leave to File Motion
8 For Reconsideration, et cetera, is reargument that has already
9 been heard and decided.

10 And while there may be some what could
11 ostensibly be considered new arguments or more flushed out
12 arguments for NRCP 26(b)(1) changes and other things, that
13 those arguments arguably have been waived and should have been
14 brought earlier.

15 And the Court is going to respectfully decline
16 to continue to perpetuate determinations on this issue at this
17 level.

18 As much as I have indicated a concern that the
19 Appellate Courts would not necessarily look at a writ related
20 to evidentiary rulings, because there is something here that
21 could cause them to take a look at it and make a decision, I
22 certainly believe that this is a viable option for the Venetian
23 to pursue if they so choose.

24 But at the end of the day, I think that there is
25 just not a legitimate legal basis to ask this Court to

1 reconsider what it has already decided. It's reversal of
2 Discovery Commissioner's Report and Recommendation. It's
3 opening up a discovery in these regards.

4 I do agree with Mr. Galliher that if not all the
5 case law, the overwhelming case law does apply to the Court
6 making the correct decision in that regard.

7 And we understand that this information is going
8 to be not only received by the plaintiff, but it's going to
9 potentially be shared with others, but we think that that
10 unbalance is something that is a natural perhaps circumstance
11 or consequence of what we have in these cases, but it is
12 allowed in this case because it is relevant to the actual case
13 that the plaintiffs have brought, and it is calculated to not
14 only be relevant information, but lead to discovery of relevant
15 information.

16 And I just think it would be improper to further
17 limit it. And I don't know what we would gain other than a
18 fuller record by having yet another hearing on this matter.

19 So I'm going to respectfully decline to allow
20 leave to file a Motion For Reconsideration, and I'm going to
21 respectfully decline to stay any determinations on the order
22 pending the hearing on that reconsideration since we're not
23 going to have that.

24 And I'm also going to respectfully decline to
25 stay at this level any proceedings pending a Writ of Mandamus.

1 Certainly En-Rap 8, I believe, subject to
2 whatever changes might have occurred with it, allows you to
3 immediately go to the Appellate Court to ask for a stay, if
4 either you've been denied at this level by motion or if there's
5 been indication given that it would be unnecessary or -- or
6 futile to come to the Court to ask.

7 So I'm basically adding into this Order I'm
8 going to ask Mr. Galliher to prepare, and I should have made
9 that clear earlier, but I think he was anticipating that
10 anyway, that I'm going to respectfully decline to stay the
11 proceedings here pending application for the Writ of Mandamus,
12 which will expedite you being able to ask the Appellate Court
13 for that stayed relief.

14 So I'll add that into this order.

15 But if you are going to get relief on this
16 point, Mr. Royal, it is going to have to come from Mandamus
17 relief, because I think we have fully flushed out, fully vetted
18 and fully considered the matters at this level, and that the
19 Court's ruling that was previously made is sound and is going
20 to stand.

21 Mr. Galliher, can you please prepare the order
22 and then we'll look for any other guidance that our Appellate
23 Court may give us?

24 MR. GALLIHER: Yes, Your Honor, I will.
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(Proceedings concluded.)

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ATTEST: Full, true and accurate transcript of proceedings.

/S/Renee Silvaggio
RENEE SILVAGGIO, C.C.R. 122

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REGISTER OF ACTIONS
CASE NO. A-18-772761-C

Joyce Sekera, Plaintiff(s) vs. Venetian Casino Resort LLC,
 Defendant(s)

§
§
§
§
§

Case Type: **Negligence - Premises Liability**
 Date Filed: **04/12/2018**
 Location: **Department 25**
 Cross-Reference Case Number: **A772761**

PARTY INFORMATION

Defendant	Las Vegas Sands LLC <i>Doing Business As Venetian Las Vegas</i>	Lead Attorneys Michael A Royal <i>Retained</i> 7024716777(W)
Defendant	Venetian Casino Resort LLC <i>Doing Business As Venetian Las Vegas</i>	Michael A Royal <i>Retained</i> 7024716777(W)
Plaintiff	Sekera, Joyce	Keith E. Galliher, Jr. <i>Retained</i> 7027350049(W)

EVENTS & ORDERS OF THE COURT

09/18/2019 **All Pending Motions** (9:30 AM) (Judicial Officer Truman, Erin)

Minutes

09/18/2019 9:30 AM

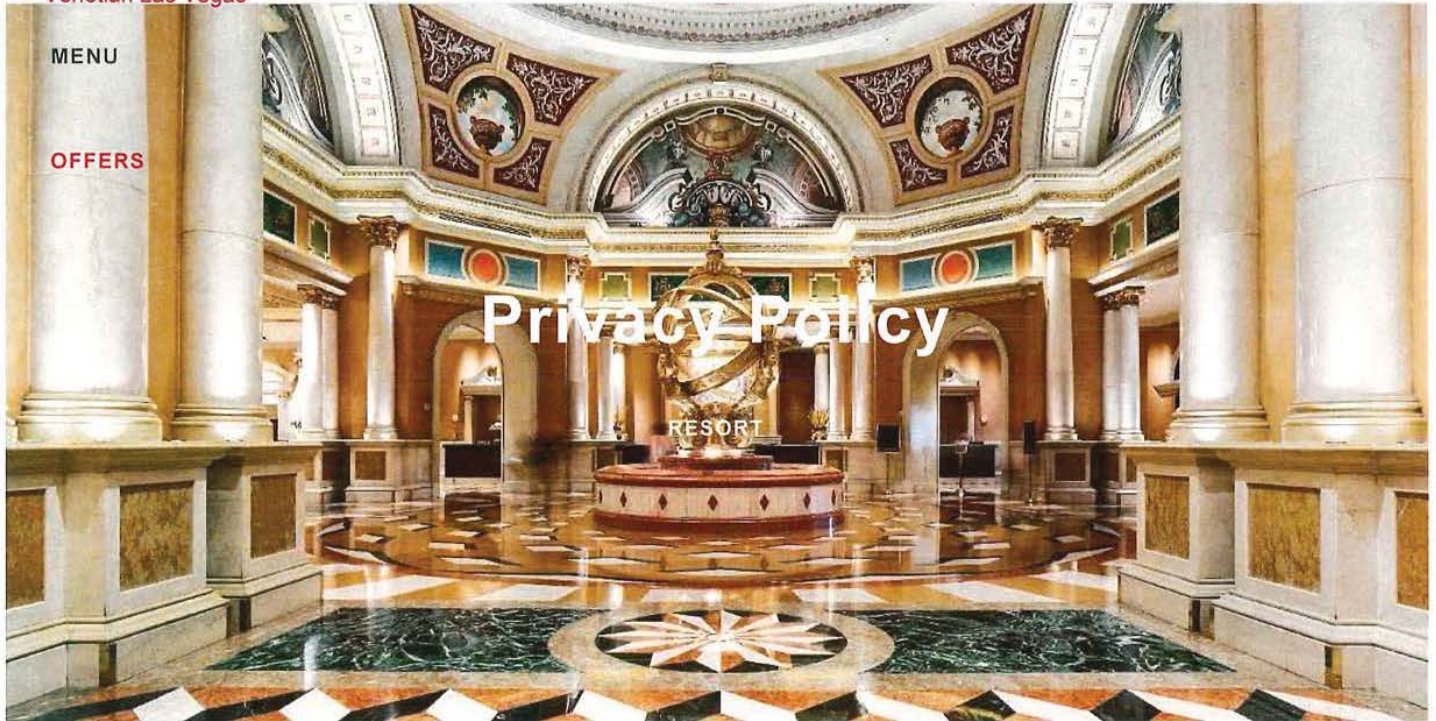
- (I) Defendants' Motion for Protective Order as to Plaintiff's Request for Production of Incident Reports from May 1999 to Present, Motion to Compel Information and Documents of Prior Incident Reports Provided to Plaintiff Expert Thomas Jennings and Identified in His May 30, 2019 Rebuttal Report and for Leave to Retake the Jennings Deposition to Address the 196 Prior Claims Referenced in His Report at Plaintiff's Expense (II) Plaintiff's Motion to Compel Testimony and Documents (III) Plaintiff's Reply in Support of Her Motion to Compel Testimony and Documents, Opposition to Defendants' Countermotion for Rule 11 Sanctions and Countermotion for Rule 11 Sanctions COMMISSIONER RECOMMENDED, Countermotion to Strike False Accusations Levied by Plaintiff in "I.Introduction" and "Legal Argument" Section "III.D." with Appropriate Sanctions is OFF CALENDAR as it does not relate to the Motion under EDCR 2.20(f). Commissioner stated Judge Delaney already made specific rulings in this case. Mr. Royal stated Plaintiff slipped and fell while working at the Venetian, and it was a transitory and temporary condition. Argument by Mr. Royal. Commissioner will limit production to five years before this incident. Argument by Mr. Galliher. Commissioner stated counsel could file an Order to Show Cause on discovery. Mr. Galliher requested the Commissioner set a deadline to produce unredacted Reports. Argument by Mr. Royal. COMMISSIONER RECOMMENDED, (I) Defendants' Motion for Protective Order is GRANTED IN PART and DENIED IN PART; 1) Plaintiff demand for information is PROTECTED as written, but it is appropriate given Judge Delany's Rulings; Deft will provide the Reports from 11-4-11 to the present, and UNREDACT Reports; 2) is PROTECTED as written, but Mr. Royal can tailor it as Directed on the record; 3) testing from 2011 to the date of this incident in the Grand Lux Rotunda; 4) is PROTECTED; 5) any prior or subsequent Reports that deal with slip and falls on marble flooring; any Incident Reports for five years before the incident as Directed on the record. Mr. Royal requested a limitation to the Grand Lux area. Arguments by counsel.

COMMISSIONER RECOMMENDED, marble floor is limited to slip and falls on the casino floor for five years prior to the present. Mr. Galliher confirmed the punitive damages claim is still alive. For that reason, Commissioner allowed subsequent Reports. COMMISSIONER RECOMMENDED, 6) Tom Jennings is Directed to produce information of prior incidents that he reviewed; 7) any prior Incident Reports in Plaintiff's possession must be produced to Deft; 8) deposition is allowed to be continued, and Plaintiff will not pay for it; Topics 6 through 18 concern the computer data, and these Topics are tailored as Directed on the record. COMMISSIONER RECOMMENDED, (II) Plaintiff's Motion to Compel Testimony and Documents is GRANTED IN PART and DENIED IN PART as stated; (III) Plaintiff's Reply in Support of Her Motion to Compel Testimony and Documents, Opposition to Defendants' Countermotion for Rule 11 Sanctions and Countermotion for Rule 11 Sanctions is (II) Plaintiff's Motion to Compel Testimony and Documents is GRANTED IN PART and DENIED IN PART as stated. COMMISSIONER RECOMMENDED, alternative relief was provided pursuant to EDCR 2.34(e); do not produce documents until two weeks after the Final Order is filed, and the Writ would Stay that period of time. Mr. Royal to prepare the Report and Recommendation, and Mr. Galliher to approve as to form and content. A proper report must be timely submitted within 14 days of the hearing. Otherwise, counsel will pay a contribution.

[Parties Present](#)

[Return to Register of Actions](#)

The Venetian Las Vegas The
Venetian Las Vegas



Privacy Policy

Last Updated: May 2018

This is the Data Privacy Policy ("Privacy Policy") of Venetian Casino Resort, LLC and its parent, affiliate and subsidiary entities (collectively, the "Company") located in the United States. In order to provide multiple access points to the services and products we offer, the Company operates many websites, including, but not limited to, www.venetian.com; www.palazzo.com; www.pasands.com; and www.sands.com. Any one of these websites may ask for and collect your personal data in order to provide you with our products and/or services, enhance your experience, and provide you with other relevant information about our offerings. This Privacy Policy applies to activities the Company engages in on its websites and activities that are offline or unrelated to our websites, as applicable. We are providing this notice to explain our information practices and the choices you can make about the way your information is collected and used.

This Privacy Policy sets forth the principles that govern our treatment of personal data. We expect all employees and those with whom we share personal data to adhere to this Privacy

[CHECK RATES](#)

The Company is committed to protecting the information that our guests, prospective guests, patrons, employees, and suppliers have entrusted to us.

This Privacy Policy applies to all personal data in any format or medium, relating to all guests, prospective guests, patrons, employees, suppliers and others who do business with the Company.

Note to EU and non-EU Residents

The Company respects all individuals' privacy rights under all the laws that apply to it, all over the world. We work to comply with privacy laws, including, but not limited to, any right you may have if you live in or visit the United States, Macao, or Singapore where our properties are located.

The Company voluntarily tries to accommodate privacy requests made by individuals. Each request is evaluated to determine whether it can be accommodated without violating legal obligations and without creating a risk to the security or integrity of the other information we hold.

For residents of the European Union ("EU"), European Economic Area ("EEA") and Switzerland, the Company recognizes the legal privacy protections afforded to individuals located in the EEA, the EU, and Switzerland, with regard to personal data. For more information about this, please read the [Notice to Residents of the EU, EEA, and Switzerland](#) provided below.

Personal Data We Collect and Use

General Information

When you use the Internet, your computer may transmit certain information to the servers that host the websites you visit. The information may include the type of Internet browser you are using, the type of computer operating system you are using, your Internet Portal (IP) address, the pages you visited on our websites, and how you arrived at our websites. When you visit our websites, we collect this information, and we use this information to create a better user experience, to identify areas for improvement on our websites, to enhance the security of our systems, and to provide information on our special offers and promotions.

Cookies

What Are Cookies?: A "cookie" is a small text file that a website can place on your computer to store your preferences. Cookies are not personally identifiable by themselves, but they can be linked to personal data you provide to us.

How We Use Cookies: We may use cookies, including Google Analytics, so that we can improve your online experience, including to detect your browser's capabilities, to track ads we display to you, to store login and purchase information of your choice, and to generate statistics on website usage.

Your Control of Cookies: Most web browsers allow some control of cookies through your browser settings. You can opt out of cookies and advertising related to the same by visiting the Network Advertising Initiative opt-out page: <http://www.networkadvertising.org/choices>.

According to its own policy, Google does not collect any personal data using Google Analytics. Nevertheless, if you do not want to use the remarketing feature from Google, you can disable it by changing the appropriate settings at <http://www.google.com/settings/ads>.

You have many choices to manage cookies on your computer. Most browsers allow you to block or delete cookies from your system, and you can set most browsers to prevent cookies from being placed on your devices. If you do this, however, you may have to manually adjust preferences every time you visit our websites and it may not be possible to use the full functionality of the websites. To learn more about your ability to manage cookies, please consult the privacy features in your browser.

Personal Data

We only collect personal data that you provide to us, or that we are authorized to obtain by you or by law. For example, we obtain credit information to evaluate applications for credit, and we obtain background check information for employment applications. The type of personal data we collect from you will depend on how you are interacting with us using our website, products, or services. For example, we may collect different information from you when you make reservations, purchase gift certificates or merchandise, participate in a contest, or contact us with requests, feedback, or suggestions. The information we collect may include your name, title, email address, mailing information, phone number, fax number, credit card information, travel details (flight number and details, points of origin and destination), room preferences, and other information you voluntarily provide.

When you enroll in our loyalty program, we also may collect your name, title, date of birth, and email address.

When you complete a credit application, we also may collect your credit information including your name, mailing address, email address, phone number, date of birth, credit score, Social Security number, employment information, financial information, including bank account and bank rating information, supporting your eligibility to receive credit, other lines of casino credit in your name, and other information you provide to us to assist us in making a determination concerning extending credit to you.

When you complete an employment application, we also may collect your name or aliases, current and previous, mailing address information, current and previous, email address, phone number, date of birth, Social Security number, employment history, credit history, education, training, and skills, including licenses and certificates, convictions for felonies or misdemeanors,

proof of eligibility to work in the United States, military service, and any other information provided in your employment application form.

Information Collected During Your Stay

Check-In Information: When you provide your personal data to make your reservation, whether it be through our websites, by phone, or in person at one of our properties, we may use that data to complete your reservation request. We also may need to collect information to comply with local laws, including your passport number, type of entry visa, date and place of birth, and driver's license number. If you choose to provide it, we also may collect additional information from you, including your frequent flyer or travel partner program information.

Preferences and Marketing: When you check in, you may be asked whether you wish to receive promotional and other marketing materials, including your interest in participating in contests, promotional offers, or using certain services we can provide to you, such as membership in our loyalty program. We also may send surveys to you to learn more about your stay and preferences. You may withdraw your consent to receive marketing and promotional materials at any time.

Itemized Spending: During your stay, we record your itemized spending related to your reservation. This includes your room rate, other expenses billed to your room, food and beverage preferences, and other special requests. We collect and record this information to keep a record of your expenses and preferences during your stay and provide it to you upon check-out.

Video Surveillance: We use closed circuit television and other security systems to monitor all gaming areas as required by the applicable local regulatory gaming authorities, as well as other public or sensitive areas of our properties for safety and security. Video surveillance cameras are used to protect us, our guests, and our employees. We monitor our surveillance cameras, and may share surveillance footage with law enforcement and/or regulatory authorities.

Other Sources of Data

When you interact with one of our properties, others may provide your information to us so that we can provide products and services.

Vendors, Suppliers, and Others Doing Business with Us: We have strict rules in place to comply with the laws that apply to us. Before we do business with a third party, we take reasonable steps to make sure that they will prudently protect the information we share with each other, including your personal data they may collect or receive.

Casino Credit: For guests who request casino credit at our properties, we may collect/check, or hire a third party to collect/check, public records available about you. We must collect this

information to comply with the law, and to protect against financial risk.

Meetings, Incentives, Conferences and Exhibitions (MICE): We may collect your data through events you attend with our exhibitor clients at any of our MICE event spaces. When you attend an event and provide personal data during the registration process to exhibitors, we may have access to your personal data because we collect certain information from the exhibitors.

Third Parties Authorized By You: When someone else arranges for you to interact with our properties, they may provide us information so that we can provide you with products and/or services during your visit. For example, when your employer or a travel agent arranges for you to stay at one of our properties, they may provide us with the information listed above so that we can provide you with products and services.

Legal Gaming Age Policy

Persons under the age of twenty-one (21) are not permitted to gamble at our properties or loiter in casino areas. Our websites are not intended for persons under the age of 21. In accordance with the Children's Online Privacy Protection Act, persons younger than 21 years of age are not allowed to use our websites, accept offers, or win contests, and we do not knowingly collect information from such persons. The Company does not knowingly collect personal information from children under the age of 16. Children are not permitted to use our websites or services, and the Company requests that children under the age of 16 not submit any personal information to it, using its websites or any other method. Since information regarding children under the age of 16 is not collected, the Company does not knowingly distribute personal information regarding children under the age of 16.

How We May Use Your Information

Your privacy is important to us. We collect and use information we believe is necessary to our business, and to provide you with the products, services, and experiences you expect when you interact with us. When we collect and use your information, we take your privacy and security very seriously.

We collect personal data to deliver superior quality of service. We will use the information you provide to us for the purpose you provided it to us (e.g., to make a reservation and book a suite at one of our properties), which is stated when information is collected. We may also use your information in other ways for our business purposes and to provide you with the products, services, and experiences you request and expect from us, including but not limited to the following purposes:

- fully respond to your questions, requests, or communications
- to provide you with products and services, including but not limited to loyalty membership and benefits and display of content
- to check if you qualify for certain offers or services (e.g., casino credit, special events,

- promotional offers, etc.) and for payment and billing for products and services
- to develop new products and services
- to improve and personalize the guest experience for you and others
- to audit, research and conduct analysis in order to maintain and improve our services and protect our guests and patrons
- for guest reservations and/or requests for information or services
- for marketing and promotions planning and execution, market research and analysis, customer satisfaction and quality assurance surveys
- to ensure third parties protect your information
- to consider your job application
- to comply with applicable laws and regulations
- for safety and security, including working with third parties to help protect your information
- to ensure the technical functioning and security of our network
- to protect the rights or property of the Company, its employees, and its guests and patrons

How We Share Information

We may share information about you to the third parties as indicated below:

Promotions: From time to time we may run promotions or marketing efforts, such as contests, sweepstakes, and/or giveaways with third parties. If you choose to participate in any such promotions, then any personal data you provide in order to participate may be shared with those third parties and be subject to their privacy policies.

Affiliates: We may share your personal data with our other properties, subsidiaries, and third parties if we need to. If we share your information, we will share only the information that is necessary and we will take reasonable steps to make sure that third parties take prudent steps to protect your information.

Agents: We use others to help us provide some of our products and services (e.g., maintenance, IT support, analysis, audit, payments, marketing, development, credit, reservations, and security). Unless we tell you differently or as described elsewhere in this Privacy Policy, our agents are expected not to have the right to use your information beyond what is needed to assist us.

Legal Requests: We may be required to respond to legal requests for your information, including from law enforcement authorities, regulatory agencies, third party subpoenas, or other government officials.

Compliance with Legal Obligations: We may have to disclose certain information to auditors, government authorities, or other authorized individuals in order to comply with laws that apply to us or other legal obligations such as contractual requirements.

Changes in Business Structure/Ownership: We may disclose or transfer your personal data to a

third party in the event of any reorganization, merger, sale, joint venture, assignment, transfer, or other disposition of all or any portion of the Company's business, assets, or stock (including any bankruptcy or similar proceedings).

Your Choices Regarding Your Information

For all personal data that we have about you, you have the following rights and/or choices that we will accommodate where your requests meet legal and regulatory requirements and do not risk making other data less secure or changing other data:

Opt Out, Object, Withdraw Consent: You can always choose not to disclose certain information to us. Where we rely on your consent to process your personal data, you have the right to withdraw or decline consent at any time. If you have provided us with your email address and you would like to stop receiving marketing emails from us, click on the unsubscribe link at the bottom of any of our email communications. If you do not wish to receive marketing communications from us via direct mail, or if you want to request that we do not share your contact information with our marketing partners, please contact us using the methods in the Contact Us section and include your name, address, and any other specific contact information that you wish to restrict.

Automated Decision-making: We may use automated decision-making to determine whether job applicants meet the required qualifications. You have the right to have a human involved in this process, to express your point of view, and to contest the decision. You may do so by using the methods in the Contact Us section below.

Access, Correct, Update, Restrict Processing, Erase: You may have the right to access, correct, and update your information. You also may request that we restrict processing of your information or erase it. To ensure that all of your personal data is correct and up to date, or to ask that we restrict processing or erase your information, please contact us using the methods in the Contact Us section below.

Data Portability: If you would like to request that we provide a copy of your information to you, please contact us using the methods in the Contact Us section below.

Responding to Requests: Each request to access, correct, restrict processing, erase, or provide a copy of data will be evaluated to determine whether the requested change meets legal regulatory requirements and does not risk making our other data less secure or changing our other data.

Complaints to Supervisory Authority: If you find yourself in the European Economic Area, European Union, or Switzerland, you have the right to lodge a complaint with a supervisory authority of the European Union or European Economic Area according to that authority's rules and procedures.

How We Protect Your Personal Data

We strive to take appropriate security measures to help safeguard your personal data from unauthorized access and disclosure. For example, only authorized employees are allowed to access personal data, and they may only access it for permitted business functions. We also use technology to protect your information, including encrypting sensitive personal data that is transferred to or from our systems and using firewalls to help prevent unauthorized persons from accessing information. If you have an online account with us, your account is also protected by a password for your privacy and security, and you must prevent unauthorized access to your account and personal data by selecting and protecting your password appropriately, limiting access to your devices, and by signing off after you have finished accessing your account.

While we cannot guarantee that loss, misuse, or alteration of information will never occur, we use reasonable efforts to prevent it. Please keep in mind that no method of storage or transmission over the Internet is completely secure, so your use of our products and services and provision of information to us is at your own risk.

Please be aware that our websites may contain links to other sites on the Internet that are owned and operated by third parties. The information practices of those websites linked to our websites are not covered by this Privacy Policy. We are not responsible for the privacy policies of websites to which our website links. If you provide any information to such third parties, different rules regarding the collection and use of your personal data may apply. We strongly suggest you review such third party's privacy policies before providing any data to them.

Notice to Residents of the EU, EEA, and Switzerland

If you reside or otherwise find yourself in the European Economic Area, European Union, or Switzerland, the Company is committed to respecting your rights as a data subject under the applicable laws of these countries. If you have a privacy concern or questions about how your personal data is used, please contact us using the methods in the Contact Us section below.

Consistent with our values, we observe the following privacy principles when collecting or processing your personal data:

- Data will be processed fairly and in accordance with applicable law.
- Data will be collected for specified and legitimate purposes, and will not be processed in ways that are incompatible with those purposes.
- Data collection and use will be limited to what is relevant for the specified purposes and will not be excessive. We will limit the amount and type of information gathered to what is necessary for the uses and purposes defined in this Privacy Policy.
- We will only collect and process personal data about you where we have a lawful basis. Lawful bases include consent (where you have given consent), contract (where we must process your personal data based on a contract we have with you, for example, to deliver requested products or services), and legitimate interests (where processing is necessary for the purposes of

compelling legitimate interests of the Company that are not overridden by your rights).

- Data subjects in the European Union, European Economic Area, and Switzerland will be asked to provide their clear and unambiguous consent for collection, processing, and transfer of their personal data.
- We will keep your personal data as accurate, complete, and up-to-date as necessary, and we will take reasonable steps to correct or delete personal data that is inaccurate or incomplete. If you think that your information is inaccurate or incomplete, please contact us using the methods in the *Contact Us* section below.
- Data will only be kept where it is necessary for the purposes for which it was collected and processed. Those purposes are defined in this Privacy Policy.
- We are required by law to comply with many regulations that require us to keep information, including your personal data, for varying time periods. We must evaluate any request to change or delete information, including your information, prior to fulfilling such request to make sure that the requested change or deletion meets legal regulatory requirements and does not change our other data or make it less secure.
- Your data will be deleted or amended if we receive a relevant request from you, if we are permitted by law to do so, and if making the change does not risk making other data less secure or risk changing other data. Please contact us using the methods in the *Contact Us* section below to submit a request.
- We have taken appropriate measures to prevent unauthorized access, loss, use, or damage to your personal data.

International Transfers of Personal Data: If you are located outside the United States and you interact with our website or provide your personal data, then your personal data may be transferred to the United States, Macao, or Singapore. If you are located in the European Economic Area, European Union, or Switzerland, please note that the United States, Macao, and Singapore currently are not on the list of countries that the European Commission considers adequate regarding the protection of personal data.

Changes to this Privacy Policy

We reserve the right to modify or change this Privacy Policy at any time. When we make a material change to this Privacy Policy, we will inform you by posting a prominent notice on the home page of our website or changing the date on this page noting when the Privacy Policy was last updated.

Contact Us

For questions regarding this Privacy Policy or to submit any of the requests mentioned above relating to your personal data, contact us using any of the following options:

Mail

Privacy Office, Legal Department
Las Vegas Sands Corp.

3355 Las Vegas Boulevard South
Las Vegas, Nevada 89109

Email

Privacy@Sands.com

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866.659.9643

Concierge

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